

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

SB CIVIL WRIT PETITION NO.3654/1999
Shri Panchulal Gujar V/s The Union of India & Ors.

DATE OF ORDER : : : 25.1.2007

**PRESENT
HON'BLE MR. JUSTICE PREM SHANKER ASOPA**

Mr.Sunil Samdaria, for the petitioner.
Mr.V.K. Joshi on behalf of
Mr.Bhanwar Bagri, for the respondents.

By this writ petition, the petitioner has challenged the order of dismissal dated 26.9.1996 (Ex.9) whereby he has been dismissed from service and order of the Appellate Authority dated 26.3.1999 passed in appeal whereby the appeal has been dismissed.

The facts, in brief, of the case are that while the petitioner was working as Rifleman, he was dismissed from service by the Commandant while exercising the power under Rule 19(i) of the Central Civil Service (Classification, Control and Appeal) Rules, 1965 (hereinafter to be referred as "the Rules of 1965") on account of conviction.

Submission of counsel for the petitioner is that the petitioner has not been convicted by any competent

court of law and Rule 21 of the Conduct Rules simply specify the misconduct, in respect of which no enquiry was conducted. Rule 19 (i) of the Rules of 1965 could not have been invoked in his case on account of the fact that he was not convicted at all.

Submission of Mr.V.K. Joshi, counsel for the respondent is that the present case is of bigamy and a letter has been written by the petitioner to his father wherein some of the facts regarding marriage has been mentioned, therefore, the respondents have rightly dismissed him from service. Other submission of Mr.Joshi is that Rule 19(i) of the Rules of 1965 has wrongly been mentioned in the dismissal order dated 26.9.1996 and it should have been Rule 11 of the Rules of 1965.

Heard counsel for the parties and gone through the record of the case and further considered rival submission of the parties.

In my view Rule 21 of the Conduct Rules is a mere specification of misconduct for which an enquiry is necessary and as regard Rule 19 (i) of the Rules of 1965, conviction is necessary. But there is no conviction, therefore, there is neither any enquiry nor any conviction which warrants invocation of Rule

19 (i) of the Rules of 1965.

The other submission of Mr.Joshi is that Rule 19 (i) has been wrongly referred and it should have been Rule 11, which is about penalties. For invoking Rule 11 also, the procedure under Rule 14 of the Rules of 1965 is necessary, but the said procedure has not been followed, therefore, the impugned order has been passed contrary to the aforesaid rules and the dismissal order as well as order of the Appellate Authority is liable to be set aside.

Accordingly, the writ petition is allowed. The dismissal order dated 26.9.1996 and appellate order dated 26.3.1999 are quashed. The petitioner is reinstated in service with all consequential benefits.

(P.S. ASOPA) J.

ummed/-